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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
Carol A. Westbrook)
)
Serial No. 07/784,222)
)
Filed: October 28, 1991)
)
)
For:)
METHODS AND COMPOSITIONS)
FOR THE DETECTION OF)
CHROMOSOMAL ABBERATIONS)

Group Art Unit: unknown
Examiner: L. Bennett
Attorney Docket: ARCD:010

DECLARATION UNDER 37 C.F.R. §1.132

Honorable Commissioner of
Patents and Trademarks
Washington, D.C. 20231

Dear Sir:

I, **Shelley Fussey** hereby declare as follows:

1. I am employed in the Austin, Texas office of the law firm of Arnold, White & Durkee located at 2300 One American Center, 600 Congress Avenue, Austin, Texas 78701-3248, as a Scientific Advisor.

2. I was employed by Arnold, White & Durkee during all of 1992 and am still employed by that firm.

3. On about May 8, 1992, Dr. David Parker, Esq. of our Austin Office gave me the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino

4. On about May 8, 1992, Dr. David Parker and I discussed the Notice and reviewed the application as filed and Dr. Parker asked that I contact the Examiner to discuss the matter.

5. On May 8, 1992 I telephoned Examiner Lisa Bennett at 703 308-3998. I told Examiner Bennett that we believed the Notice to be improper because the application as filed did not contain any recited nucleotide or amino acid sequences that would necessitate the submission of a Sequence Listing.


6. Examiner Bennett told me that she would review the file and contact me or Dr. Parker if she thought a Sequence Listing was required.

7. Because neither I nor Dr. Parker had heard from Examiner Bennett, I telephoned Examiner Bennett again on June 3, 1992. At that time, Examiner Bennett informed me that, in her opinion, a Sequence Listing was not needed because the application did not recite nucleotide or amino acid sequences that required such a listing. Examiner Bennett suggested that a letter be written to the Application Branch, which letter would set forth Examiner Bennett's findings and the reasons therefore.

8. I asked Thomas Northrup of the Chicago Office of Arnold, White & Durkee to send such a letter to the Application Branch. Dr. Northrup informed me on about August 6, 1992 that he had sent such a letter.

9. The undersigned declares that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

6th May, 1993
Date



Shelley Fussey, Ph.D.